

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
)
vs.) CASE NO. 2:06cr178-SRW
)
CARRIE J. FLOWERS)

DEFENDANT CARRIE J. FLOWERS'
REQUESTED JURY INSTRUCTIONS

COMES NOW the Defendant, Carrie J. Flowers, by and through her attorney of record and requests this Court to instruct the Jury with the attached instructions in addition to the standard instructions.

RESPECTFULLY SUBMITTED this the 6th day of March, 2007

/s/ RONALD W. WISE, WIS0904
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

/s/Ronald W. Wise

DEFENDANT, CARRIE J. FLOWERS,

REQUESTED JURY INSTRUCTION

NO. 1

2.1 Duty To Follow Instructions

You must make your decision only on the basis of the testimony and other evidence presented here during the trial; and you must not be influenced in any way by either sympathy or prejudice for or against the Defendant or the Government.

You must also follow the law as I explain it to you whether you agree with that law or not; and you must follow all of my instructions as a whole. You may not single out, or disregard, any of the Court's instructions on the law.

The indictment or formal charge against any Defendant is not evidence of guilt. Indeed, every Defendant is presumed by the law to be innocent. The law does not require a Defendant to prove innocence or to produce any evidence at all. The Government has the burden of proving a Defendant guilty beyond a reasonable doubt, and if it fails to do so you must find that Defendant not guilty.

Granted _____

United States Magistrate Judge

Modified _____

Denied _____

DEFENDANT, CARRIE J. FLOWERS'

REQUESTED JURY INSTRUCTION

NO. 2

Indictment not evidence

The indictment, a document drafted and composed by the Government, is not evidence. The information contained in the indictment is not to be considered by you in your deliberations. The indictment is nothing more or less than the vehicle by which the Government charges that a crime has been committed. The only purpose of an indictment is to apprise a defendant of the charges against her. The fact that an indictment has been issued is not evidence of guilt, nor should it factor into your deliberations as you attempt to determine the guilt or innocence of this Defendant.

Granted _____

Modified _____

Denied _____

United States Magistrate Judge

DEFENDANT, CARRIE J. FLOWERS'

REQUESTED JURY INSTRUCTION

NO. 3

3 Definition Of Reasonable Doubt

Thus, while the Government's burden of proof is a strict or heavy burden, it is not necessary that a Defendant's guilt be proved beyond all possible doubt. It is only required that the Government's proof exclude any "reasonable doubt" concerning the Defendant's guilt.

A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

Granted _____

United States Magistrate Judge

Modified _____

Denied _____

DEFENDANT, CARRIE J. FLOWERS'

REQUESTED JURY INSTRUCTION

NO. 4

§ 12.10 Presumption of innocence

I instruct you that you must presume that defendant Flowers is innocent of the crimes charged. Thus defendant Flowers, although accused of crimes in the indictment, begins the trial with a clean slate, with no evidence against her. The indictment as you already know is not evidence of any kind. The law permits nothing but legal evidence presented before the jury in court to be considered in the support of any charge against defendant Flowers. The presumption of innocence alone, therefore, is sufficient to acquit defendant Flowers.

The burden is upon the government to prove guilt beyond a reasonable doubt. This burden never shifts to the defendant for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. The defendant is not even obligated to produce any evidence by cross-examining witnesses for the government.

It is not required that the government prove guilt beyond all doubt. The test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense—the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing

character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

Unless the government proves, beyond a reasonable doubt, that defendant Flowers has committed each and every element of the offenses charged in the indictment, you must find defendant Flowers not guilty of the offenses. If the jury views the evidence in the case as reasonably permitting either of two conclusions—one of innocence, the other of guilt—the jury must, of course, adopt the conclusion of innocence.

Granted _____

United States Magistrate Judge

Modified _____

Denied _____

DEFENDANT, CARRIE J. FLOWERS'

REQUESTED JURY INSTRUCTION

NO. 5

9.1 On Or About - - Knowingly - - Willfully (modified)

The word "knowingly," as that term is used in the indictment or in these instructions, means that the act was done voluntarily and intentionally and not because of mistake or accident.

The word "willfully," as that term is used in the indictment or in these instructions, means that the act was committed voluntarily and purposely, with the specific intent to do something the law forbids; that is with bad purpose either to disobey or disregard the law.

Granted _____

Modified _____

Denied _____

United States Magistrate Judge

DEFENDANT, CARRIE J. FLOWERS'

REQUESTED JURY INSTRUCTION

NO. 6

Evidence of Defendant's Good Character

Proof of good character, standing alone, may be sufficient to generate a reasonable doubt as to the Defendant's guilt, even where there would be no doubt in the absence of such evidence. Therefore, after a consideration of the evidence in this case and a consideration of the good character evidence presented, that testimony alone may be sufficient to generate a reasonable doubt as to the Defendant's guilt, and, if that be the case, you should return a verdict of not guilty as to each charge in the indictment.

Granted _____

Modified _____

Denied _____

United States Magistrate Judge

DEFENDANT, CARRIE J. FLOWERS',

REQUESTED JURY INSTRUCTION

NO.7

11 Duty To Deliberate

Any verdict you reach in the jury room, whether guilty or not guilty, must be unanimous. In other words, to return a verdict you must all agree. Your deliberations will be secret; you will never have to explain your verdict to anyone.

It is your duty as jurors to discuss the case with one another in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after full consideration of the evidence with the other members of the jury. While you are discussing the case do not hesitate to reexamine your own opinion and change your mind if you become convinced that you were wrong. But do not give up your honest beliefs solely because the others think differently or merely to get the case over with.

Remember, that in a very real way you are judges -- judges of the facts. Your only interest is to seek the truth from the evidence in the case.

Granted _____

Modified _____

Denied _____

United States Magistrate Judge

